

REMARKS

Claims 8, 10, 11, and 14-24 are pending. Reconsideration and allowance are respectfully requested in light of the above amendments and following remarks.

Rejections under 35 U.S.C. §112

Claims 8, 10, 11, and 14-16 stand rejected under 35 U.S.C. §112, second paragraph, as assertedly failing to point out and distinctly claim the subject matter which Applicant regards as the invention. Insofar as they may be applied to the claims, these rejections have been overcome because Applicant has amended Claim 8 to include “a plurality of rotatable shafts, each shaft being at least partially disposed in the housing.” Since there are a plurality of shafts, where each shaft is at least partially disposed in the housing, it can clearly be seen that axial motion of one of these partially disposed shafts will adjust the gap. Accordingly, Applicant respectfully requests that the rejections of Claims 8, 10, 11, and 14-16 be withdrawn.

Rejections under 35 U.S.C. §§102 and 103

Claims 8, 10, 14, 15, 17, 18, 19, and 23 stand rejected under 35 U.S.C. §102(b) in view of U.S. Patent No. 4,181,050 by Stroobants et al. (“Stroobants”), and Claims 11, 16, and 20-22 stand rejected under 35 U.S.C. §103(a) in view of Stroobants. Insofar as they may be applied against the Claims, these rejections have been overcome.

Again, Stroobants does not teach, suggest, or disclose any type of adjustment mechanism, where the axial motion of a rotatable shaft provides an adjustment of the gap between the blades. In particular, rejected independent Claim 8 recites one of the distinguishing characteristics of the present invention, namely, “an adjustment mechanism to adjust a gap between the blades through

axial motion of at least one of the rotatable shafts.” Also, rejected independent Claim 17 recites one of the distinguishing characteristics of the present invention, namely, “means for adjusting a gap between the first and second blade through axial motion of at least one of the first and second shafts.” The Examiner stated, however, that the apparatus’ intended function does not differentiate the claimed invention from the prior art. Applicant, however, does not believe this to be a “functional limitation”; instead, Applicant believes this to be a “structural limitation.”

With respect to Claim 8, Applicant explicitly recites “an adjustment mechanism to adjust a gap between the blades through axial motion of at least one of the rotatable shafts.” Specifically, the description “to adjust a gap between the blades through axial motion of at least one of the rotatable shafts” indicates that (1) the shaft has the ability to move axially (which describes the physical structure of the apparatus) and (2) the gap is adjusted by this axial motion of the shaft (which again describes the physical structure). Even though this language is functional, Applicant has specifically used this functional language to set definitive boundaries on the protection being sought. Otherwise, if Applicant did not intend for the language to be limiting, Applicant would have claimed “an adjustment mechanism that is adapted to adjust a gap between the blades through axial motion of at least one of the rotatable shafts.” (Emphasis added.) Clearly, Applicant (in Claim 8) is not simply describing a preferred function but, instead, is describing the physical structure limited by its function.

With respect to Claim 17, Applicant explicitly recites “means for adjusting a gap between the first and second blade through axial motion of at least one of the first and second shafts.” Applicant would like to point the Examiner’s attention to the words “means for” present in this limitation. By use of the terms “means for,” Applicant is claiming the subject matter of the invention pursuant to 35 U.S.C. §112, ¶6. Thus, in accordance with 35 U.S.C. §112, ¶6, a device or

physical structure (means) is clearly defined by its function (adjusting a gap between the first and second blade through axial motion of at least one of the plurality of rotatable shafts). Additionally, as with Claim 8, the description “adjusting a gap between the blades through axial motion of at least one of the rotatable shafts” indicates that (1) the shaft has the ability to move axially (which describes the physical structure of the apparatus) and (2) the gap is adjusted by this axial motion of the shaft (which again describes the physical structure). Clearly, Applicant (in Claim 17) is not simply describing the preferred function but, instead, is describing the physical structure limited by its function.

In view of the foregoing, Applicant, again, respectfully asserts that Stroobants does not teach, suggest, or disclose all of the features of Claims 8 and 17. In particular, Stroobants shows a rocker arm (198), and not an adjuster or means for adjusting as claimed. Specifically, in Col. 6, line 50, to Col. 7, line 20, Stroobants describes the rocker arm (198) closing the gap or pivoting. The rocker arm (198), though, “swings” into position by rotating in a plane that is substantially parallel to the planes of the cutting blades. Effectively, the rocker arm (198) is used to engage the can so as to trim it. The inventions of Claims 8 and 17 do this as well, but as described, the inventions of Claims 8 and 17 include a gap that exists prior to engagement of the can. This gap is adjusted by axial motion of one of the shafts upon which a blade is mounted. This type of adjustment allows for adjustment of the trimming apparatus after installation to allow for “fine tuning” or adjustments to its performance. Stroobants does not provide such a feature nor does it provide such a benefit. Accordingly, Applicant respectfully requests that the rejections of Claims 8 and 17 under 35 U.S.C. §102(b) in view of Stroobants be withdrawn and that Claims 8 and 17 be allowed.

Claims 10, 11, 14-16, and 18-23 depend on and further limit one of Claims 8 and 17. Hence, for at least the aforementioned reasons, these Claims would be deemed to be in condition for

allowance. Applicant respectfully requests that the rejections of dependent Claims 10, 11, 14-16, and 18-23 also be withdrawn.

Claim Objection

Claim 24 stands objected to but would be allowed if it were to incorporate the features of Claim 17 and any intervening claims. Applicant wishes to thank the Examiner.

Conclusion


Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 8, 10, 11, and 14-24.

Applicant has included a payment of \$790.00 to cover the fee for an RCE. In the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account 50-2180 of Storm LLP.

Should the Examiner require any further clarification to place this Application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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